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February 15, 2016

Via Electronic Filing

Ms. Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, SW
Room TW-A325
Washington, DC 20554

Re: Notice of *Ex Parte* Presentation; CG Docket No. 02-278

Dear Ms. Dortch:

On February 11, 2016, Martha Duggan with the National Rural Electric Cooperative Association (“NRECA”) and Tracy Marshall with Keller and Heckman LLP (counsel to NRECA) met with Holly Saurer, acting Media Legal Advisor to Commissioner Clyburn. The following individuals who are employees of NRECA electric cooperative members also participated by telephone: Cathy McKay (Grundy EMC); Mike Wallis (Flint Energies); Shane King (Jackson County EMC); and Nancy Berges (Highline Electric Association).

The participants discussed the pending *Petition for Expedited Declaratory Ruling* filed by the Edison Electric Institute and American Gas Association in the above-referenced proceeding (the “EEI Petition”),¹ which urges the Commission to declare that providing a number, in particular a wireless number, to an energy utility constitutes “prior express consent” under the Telephone Consumer Protection Act of 1991 (“TCPA”) and FCC rules² to receive non-telemarketing, informational calls and texts at such number that relate to the customer’s utility service. The discussion focused on the importance of the non-telemarketing, service-related calls and texts that rural electric cooperatives place to their members, who are also their owners.

¹ *Rules and Regulations Implementing the Telephone Consumer Protection Act of 1991; Petition for Expedited Declaratory Ruling of the American Gas Association and Edison Electric Institute*, CG Docket No. 02-278 (Feb. 12, 2015).

² 47 U.S.C. § 227(b); 47 C.F.R. § 64.1200(a)(1).

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The participating cooperatives described the types of service-related calls and texts they have placed to their member-owners, including communications regarding outages, pre-payment balances, delinquent payments, and impending service termination. They explained the value of these communications to their members and to the cooperatives' provision of safe, affordable, efficient, and reliable service to their communities. For example, courtesy calls about pre-payment accounts that need to be replenished or delinquent payments help individuals avoid the expense and inconvenience of disconnection, and calls about planned service outages help them prepare in advance. Notifications about low pre-payment balances are particularly important since many cooperative members replenish those accounts in small amounts, so they are quickly depleted.

The cooperatives also discussed the types of complaints they received from their members when they stopped these communications due to the threat of TCPA litigation. Cooperative members have complained because they want to continue to receive these types of calls. The number of complaints highlights the importance of these communications to the recipients. NRECA provided Ms. Saurer with the enclosed handout, which further highlights the importance of these calls and texts.

Finally, the participants discussed the various circumstances that make obtaining express written consent for these service-related calls and texts from all individuals who desire to receive them impractical. In addition, many cooperative members simply do not respond to attempts to obtain written consent, even though they want to receive these communications and they complain when they do not. As a result, many individuals are not receiving important, time-sensitive communications relating to their electric service that they want and need.

NRECA urges the Commission to promptly grant the EEI Petition.

This notice is being filed electronically in the above-referenced proceeding, pursuant to Section 1.1206(b)(2) of the Commission's rules. Please contact me with any questions.

Respectfully submitted,

/s/ Tracy P. Marshall

Tracy P. Marshall
Counsel to NRECA

Enclosure

cc: Holly Saurer



National Rural Electric Cooperative Association

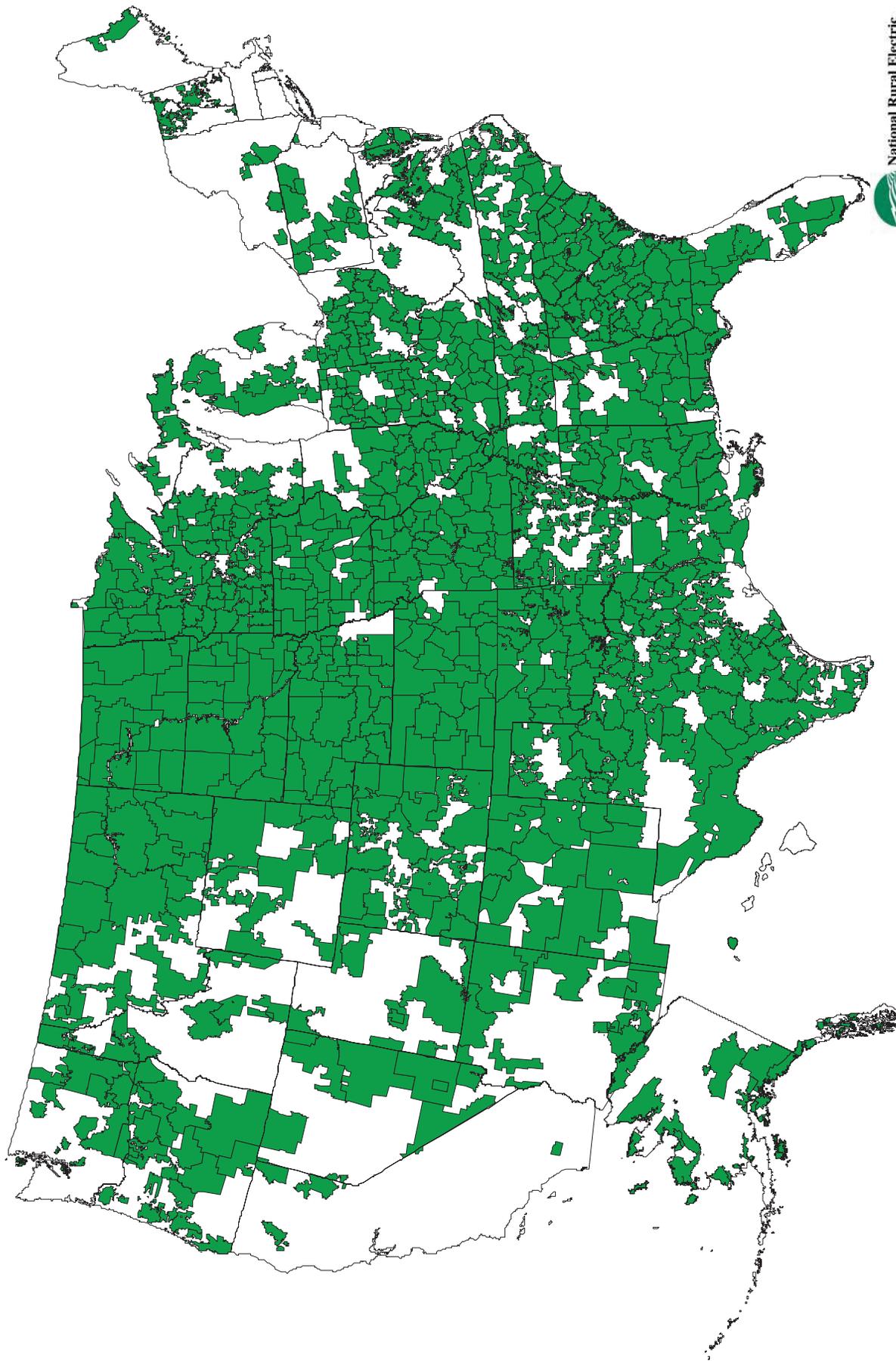
A Touchstone Energy® Cooperative 

Electric Cooperative Communications with Our Member-Owners

Impacts of the Telephone Consumer Protection Act

August, 2015

Counties in Which Electric Distribution Co-ops Serve



Rural Electric Cooperatives – By the Numbers

- 930 Consumer-Owned and - Governed Utilities:
 - 42 million consumer owners
 - 47 States
 - 12% of the Population
 - 2.3 Million Miles of Line (42% of Nation's Total Distribution Plant)
 - Built, Own & Operate 54,000 MW of generation
 - Service Area Covers 75% of Nation's Land Mass
 - Employ 70,000 people in the U.S.
 - Pay \$1.4 billion in state and local taxes annually
-
- Median Per Capita Income of Co-op Consumers = 21% Below the National Average (or \$21,435)
 - Serve the vast majority of the nation's persistent poverty counties (327 out of 353, or 90%).
 - These counties have deeply entrenched poverty with rates consistently 20% or above for the last three decades

Types of Automated/Robo Calls and Texts Member Co-ops Make

- Outages
- Restoration
- Tree Trimming
- Prepayment balances
- Disconnection for non-pay



What NRECA Is Doing to Address the TCPA

- Webinar presented on November 1, 2013.
- Information sent out to Legal and Financial communities advising caution.
- Recommendations to update membership application to include express consent.
- Recommendations to reach out to customers to request express consent.
- Featured panels at NRECA's 2015 Legal Seminars
 - Held in 2 locations (San Antonio TX and Asheville NC)
 - Approximately 300 lawyers (in house and outside counsel to electric cooperatives) attended.
- Articles published in NRECA's Legal Review
 - Readership of approximately 1,000



Poll of NRECA Member CEOs (Aug. 2015)

- Three questions:
 - Have you stopped autodialing, robocalling or texting your member owners?
 - If yes, have member owners expressed concern/complained about it?
 - If yes, how many complaints have you received?
- 132 responses as of 8/24/2015
 - Of the 101 co-ops that make or have made autodialed, robocalls, or text messages 31 have stopped.

NRECA Member Response

Complaints from member-owners when calls and/or texts were STOPPED:

- “I would estimate for the first few months we received 15 or so calls per week. We are a 18,000 meter system.”
- “I would estimate . . . approximately 50 complaints each month and I feel that the complaints will continue.”
- “We had an immediate response when service was disconnected for nonpayment and members did not receive the call. An estimate of the number of comments/complaints since July 31 is 100.”
- “We have received over 1000 calls asking that the service be reinstated.”
- “Approximately 150 complaints per month.”
- “we have had complaints from our members who said they wish they would have known about the outage. I’d say 15% of the members who were impacted will complain.”
- “Probably 50 complaints total.”
- “When we suspended these calls we received several complaints from our members . . . We had over seventy people call and complain that we no longer were concerned about their accounts and they felt we were getting just like the big companies.”
- “Yes our members have complained that they liked the meeting reminders, payment and account information calls and other informational calls. At almost every member committee meeting, member Zone meetings, and the like, we hear comments or are asked questions as to why those calls are not being made.”
- “[about] 125 in the couple of months following the practice being discontinued.”

NRECA Member Response

Comments from co-ops that have not stopped autodialed calls, robocalls or text messages:

- “The only complaints we have received are when people say they don’t receive our phone calls... Both for disconnect for non-pay or outages. We constantly receive thankful comments from members whenever we remind them about needed payments or provide outage information.”
- “We also make courtesy call-outs each week to members coming up on the next nonpay disconnect list. Unfortunately, many members really depend on those ‘last minute’ reminders instead of reading the cut-off dates on their bills.”
- “...if we have technical issues with the IVR that prevent a dial out, members get very upset that they were not called prior to a disconnect. We disconnect an average of 150 members per day.”
- “...last week we unexpectedly lost one of our outgoing dialing circuits. As a result, many of our outbound automated calls went undelivered. That said, we had quite a few members call us stating they were disappointed that we were unable to deliver the low balance and pending disconnect messages they have come to appreciate.”
- “We have found that our members LOVE these notifications and get upset when they do not get them. We cancelled our delinquent reminders during an ice storm a few years back and got *numerous* (emphasis in original) complaints that these did not go out.”

Questions or Comments?

Martha Duggan – Sr. Principal, Regulatory Affairs

National Rural Electric Cooperative Association

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